

A. G. Contract No. KR99 1100TRN
ADOT ECS File: JPA 99-80
Project: HURF Advance
Section: Penrod Road
TRACS No. HRF-NNA-0-719/HF019 01C

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
NAVAJO COUNTY, ARIZONA

THIS AGREEMENT is entered into 5 AUGUST, 1999,
pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the
STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State")
and NAVAJO COUNTY acting by and through its BOARD OF SUPERVISORS (the "County").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-401 and 28-6993(G) to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State

2. The County is empowered by Arizona Revised Statutes Section 11-251 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the County

3. The State Transportation Board has approved the exchange of \$386,208.00 in Highway User Revenue Funds (HURF) during FY99 and \$170,000.00 during FY00 to the County for construction of improvements to the county road Penrod Road, and such funds will be repaid to the State by withholding from the Northern Arizona Council of Governments (NACOG) federal funds and the obligation authority for federal funds in the amount of \$489,493.00 during fiscal year 1999 and \$215,464.00 during fiscal year 2000.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows

NO 23443
Filed with the Secretary of State
Date Filed: 08/05/99
Debrae Bayless
Secretary of State
By Vicky J. Haenewael

II. SCOPE OF WORK

1. The County will:

a. Provide design plans, specifications and such other documents and services required for construction bidding and construction.

b. Call for bids and award one or more construction contracts for the project. Administer same and make all payments to the contractor(s). Be responsible for any additional funds required to complete the project, and for any contractor claims for extra compensation due to delays or whatever reason. Comply with all applicable State laws, rules and regulations.

c. Invoice the State for thirty percent of the project cost at the start of construction.

d. Invoice the State for thirty percent of the project cost at the thirty percent and sixty percent project completion stages.

e. Upon completion, approve and accept the project as complete and provide maintenance.

f. Invoice the State for ten percent of the project cost at the one hundred percent project completion stage after final project review is completed by NACOG representatives and State ADOT representatives.

2. The State will:

a. Within 30 days after receipt and approval of an invoice, advance the County HURF funds in accordance with paragraph II.1.c., d. and f. above.

b. Withhold from NACOG, federal funds and the obligation authority of federal funds in the amount of \$489,493.00 during FY99 and \$215,464.00 during FY00.

III. MISCELLANEOUS PROVISIONS

1. The State assumes no liability under this agreement. The County assumes full responsibility for the design, plans and specifications, reports, the engineering in connection therewith, cost over-runs and claims. It is agreed that the State's participation is confined solely to advancing highway user revenue funds; that any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of the County and that the County hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance of any provisions of this agreement by the State, any of its departments, agencies, officers and employees, the County, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, expenses of litigation or attorneys' fees.

2. This agreement shall remain in force and effect until completion of said project; provided, however, that this agreement, except any provisions herein for maintenance, which shall be perpetual, unless assumed by another governmental entity, may be cancelled at any time prior to the award of a construction contract, upon thirty (30) days written notice to the other party.

3. This agreement shall become effective upon filing with the Secretary of State.

4. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.
5. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.
6. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.
7. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

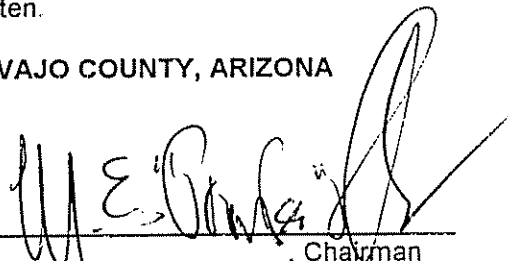
Arizona Department of Transportation
Joint Project Administration
205 South 17 Avenue, Mail Drop 616E
Phoenix, AZ 85007

Navajo County
County Engineer
PO Box 668
Holbrook, AZ 86025


8. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

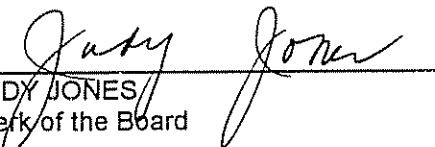
NAVAJO COUNTY, ARIZONA

By  , Chairman
Board of Supervisors

STATE OF ARIZONA
Department of Transportation

By 
DALE BUSKIRK, Director
Transportation Planning

ATTEST

By 
JUDY JONES
Clerk of the Board

RESOLUTION

BE IT RESOLVED on this 17th day of May 1999, that I, the undersigned MARY E. PETERS, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Intermodal Transportation Division, to enter into an agreement with Navajo County for the purpose of defining responsibilities for the exchange of HURF funds for improvements to Penrod Road.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the Director of Transportation Planning for approval and execution.

A handwritten signature in black ink, appearing to read 'D. Allocco', written over a horizontal line.

DAVID R. ALLOCCO, P.E.
Assistant State Engineer
Engineering Technical Group
for Mary E. Peters, Director

RESOLUTION NO. 70-99

**RESOLUTION OF THE BOARD OF SUPERVISORS
AUTHORIZING THE CHAIRMAN TO SIGN AN INTERGOVERNMENTAL
AGREEMENT WITH THE ARIZONA DEPARTMENT OF TRANSPORTATION
PENROD ROAD PHASE I CONSTRUCTION IMPROVEMENTS**

WHEREAS, the Arizona Department of Transportation (ADOT) is empowered by A.R.S. § 28-401 and § 28-6993 to enter into this agreement and agrees to exchange Highway User Revenue Funds (HURF) for construction of improvements to the Navajo County road, Penrod Road;

Whereas, Navajo County agrees to perform Phase I of the construction improvements to Penrod Road, including subgrade construction with appropriate drainage structures and fencing;

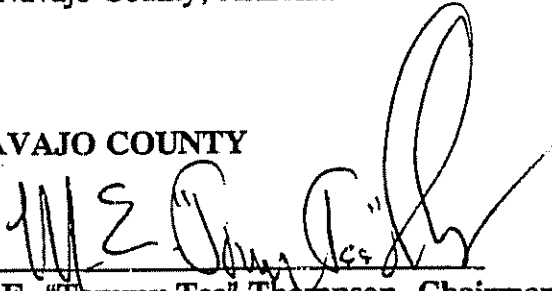
Whereas, Navajo County will seek funding through the State Infrastructure Bank and other sources to continue moving forward with the project until it is completed to ADOT standards.

Whereas, such funds will be repaid to the State by withholding from the Northern Arizona Council of Governments (NACOG) federal funds; and

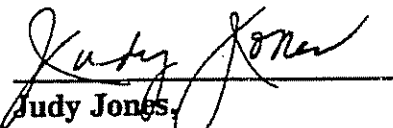
NOW, THEREFORE, BE IT RESOLVED that the Navajo County Board of Supervisors is empowered by ARS §11-251 to enter into an Agreement with the Arizona Department of Transportation, and authorizes the Chairman to sign said agreement.

PASSED AND ADOPTED this 12th day of July, 1999 by the Board of Supervisors of Navajo County, Arizona.

NAVAJO COUNTY


M.E. "Tommy Tee" Thompson, Chairman
Navajo County Board of Supervisors

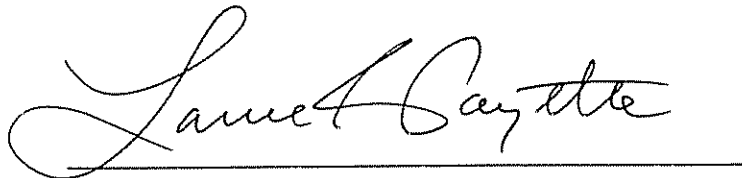
ATTEST:


Judy Jones,
Clerk of the Board

APPROVAL OF THE NAVAJO COUNTY ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION, and NAVAJO COUNTY and declare this agreement to be in proper form and within the powers and authority granted to the County under the laws of the State of Arizona.

DATED this 7TH day of July, 1999.

A handwritten signature in cursive script, reading "Samuel Gayette", written over a horizontal line.

Deputy County Attorney



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

1275 WEST WASHINGTON, PHOENIX, AZ. 85007-2926

JANET NAPOLITANO
ATTORNEY GENERAL

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INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR99-1100TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED July 28, 1999.

JANET NAPOLITANO
Attorney General

JAMES R. REDPATH
Assistant Attorney General
Transportation Section

JRR:et/79920

Enc.